

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Interconnection Between Local)
Exchange Carriers and Commercial)
Mobile Radio Service Providers)

CC Docket No. 95-185

Equal Access and Interconnection)
Obligations Pertaining to Commercial)
Mobile Radio Services Providers)

CC Docket No. 94-54

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COMMENTS OF ANCHORAGE TELEPHONE UTILITY

Voluntary negotiations have worked well in the Anchorage, Alaska market to produce low cost and flexible interconnection arrangements for cellular and other mobile telecommunications services. There is every reason to expect that voluntary negotiations will produce similar beneficial results for Personal Communications Services ("PCS"). Accordingly, the Municipality of Anchorage d/b/a Anchorage Telephone Utility ("ATU") strongly urges the Commission to refrain from imposing its proposals in its Notice of Proposed Rulemaking in this proceeding in the Anchorage market. Instead, the Commission should rely on the interconnection agreement negotiation procedures established by Section 251 of the Communications Act, 47 U.S.C. § 251, as newly enacted by the Telecommunications Act of 1996.

I.

As a result of voluntary negotiations, interconnection arrangements between cellular providers and ATU are flexible and provided at low cost. The non-

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wireline cellular provider in the market is AT&T Wireless (formerly McCaw Cellular Communications), an operator of cellular systems nationwide and a subsidiary of AT&T, which also owns AT&T Alascom, one of the two interexchange carriers serving Alaska. AT&T Wireless brings substantial expertise, experience and market power to the interconnection negotiations with ATU. In ATU's view, AT&T Wireless has been a tough but fair negotiator that has used its formidable capabilities effectively to develop a mutually acceptable interconnection agreement. Consequently, the existing rate is only 2.2 cents per minute for terminating calls that originate on the cellular system.

Because it owns MACtel, the wireline cellular provider in the market, ATU has been very careful to assure that it does not discriminate in MACtel's favor in any respect, including interconnection. MACtel is a separate company, operated nearly independently of ATU. MACtel's independence is evidenced by the fact that for interstate traffic, MACtel bypasses ATU and connects directly with AT&T Alascom's interexchange switch. ATU charges McCaw and MACtel the same rates for interconnection and their respective interconnection agreements with ATU are nearly identical. ATU also carefully monitors interconnection service between itself and each of McCaw and MACtel to assure that each cellular provider is receiving service in all respects -- including for example facilities provisioning, service quality, billing and repair -- comparable to the service provided to the other cellular provider.

Since cellular was first instituted in Anchorage over six years ago, minutes of interconnection use with ATU have grown from 1,059,688 to 22,871,966. This is an annual growth rate of over 343%! ATU believes that its reasonable interconnection arrangements with McCaw and MACtel have played an important role in facilitating this dynamic growth of cellular service in Anchorage.

In short, a system of voluntary negotiations -- rather than tariffing or other regulatory mechanisms -- has performed very well in Anchorage. ATU's cellular interconnection partner, AT&T Wireless, as well as its parent AT&T, both agree that voluntary negotiations should be the norm:

LEC-to-CMRS interconnection arrangements should continue to be established on a contractual basis.¹

The current system of privately negotiated agreements regarding interconnection between LECs and cellular carriers affords LECs flexibility to meet the needs of cellular providers, and appears to be working satisfactorily.²

II.

There is every reason to believe that voluntarily negotiated interconnection agreements will also work well for PCS in Anchorage. Nevertheless, the Commission's "bill and keep" solution assumes that every LEC possesses

¹ Comments of McCaw Cellular Communications, Inc., CC Docket No. 94-54, September 24, 1994, p. 213.

² Comments of AT&T, CC Docket No. 94-54, September 12, 1994, p. ii.

substantial market power in the provision of local telecommunications services and will use that substantial market power to extract monopoly (i.e. excessive) rents or to specify technical requirements for interconnection that will effectively keep PCS customers from placing calls to wireline customers. Such a scenario may be possible for an RBOC or equivalent LEC, but it is simply not the case for the municipally-owned ATU.

For PCS, the A block and B block auctions were won by subsidiaries of General Communications, Inc. ("GCI"), and Telephone and Data Systems, Inc. ("TDS"), each of which is fully capable of negotiating effective and advantageous interconnection agreements. GCI, one of the new PCS providers, has for example, consistently demonstrated that it has the political and financial strength to ably achieve its marketplace goals. GCI is well aware that ATU, while under an independent board of directors, must ultimately answer to the members of the Anchorage Assembly (i.e. "city council"). This local political control means that GCI and TDS (as well as AT&T Wireless) will have an additional forum, besides the negotiation table, in which to express their concerns in the development/negotiation of a fair and equitable interconnection rate.

Because GCI is one of two interexchange carriers in Alaska, ATU and GCI have been interconnecting with each other for more than 13 years. GCI is

therefore fully familiar with the Anchorage market as well as ATU and its services and facilities.

GCI also has substantial experience negotiating with ATU. GCI and ATU have a billing and collection agreement and negotiate routinely on matters before the Alaska Public Utilities Commission. GCI will surely address PCS interconnection with the same vigor and creativity with which it has, and continues to, address other negotiations with ATU.

TDS, the other PCS auction winner, is itself a local exchange carrier -- larger than ATU -- with its own mobile telecommunications operations across the country.³ TDS, too, knows interconnection from both the mobile and wireline "sides" and is fully equipped to negotiate interconnection agreements with ATU that will meet its needs.

Furthermore, neither the GCI and TDS PCS subsidiaries is undercapitalized. Both GCI and TDS paid substantial sums for their PCS licenses in the Alaska MTA. Accordingly, GCI and TDS will both have strong incentives and the financial capability to bring their full resources to bear in negotiating interconnection

³ Industry sources report that TDS serves over 350,000 access lines, well over twice the number served by ATU. 1995 Telephone Industry Directory, p. 5. TDS also owns United States Cellular Corporation, whose "owned and operated [cellular] systems serve in excess of 362,000 customers" Comments of Telephone and Data Systems, Inc., and United States Cellular Corporation, CC Docket No. 94054, September 12, 1994, p.2.

arrangements with ATU. There is no need for the Commission to require ATU to subsidize either of these player's entry into the market.⁴

The capabilities and incentives of the existing and future commercial mobile service providers in Anchorage are powerful and real. The assumption in the Notice that CMRS providers will somehow be outgunned in interconnection negotiations simply does not apply in the Anchorage market. There is no legitimate basis for abandoning the system of voluntarily negotiated interconnection agreements that has, and continues to, serve all of the parties and their subscribers so well.

III.

ATU fully supports the comments of United States Telephone Association and the Alaska Telephone Association in urging the Commission to refrain from adopting the proposals in the Notice. Even on an interim basis, the Commission's "bill and keep" proposal would impose a patently unfair, probably illegal and wholly unnecessary Washington solution on a local market whose

⁴ Purchasers of PCS licenses did so with the reasonable expectation that they, just like their main competitors the local cellular providers, would have to pay a fair and reasonable charge to interconnect to the LEC's network. This anticipated expense would have been factored into their PCS business plan. For the Commission to now rule that PCS providers will not have to pay a fair and reasonable interconnection rate (when their competitors the local cellular companies must), would be to provide PCS licensees with an unexpected, and unjustified financial subsidy, at the expense of the local ratepayers.

circumstances do not fit the federal regulators' assumptions. Mobile services in Anchorage are thriving, [growing at a much faster rate than wireline telecommunications services]. The subsidy that "bill and keep" would force ATU's subscribers to pay to CMRS providers cannot be justified⁵.

Federal intervention is inappropriate in the Anchorage market for another reason. MACtel already bypasses ATU in interexchange service, and it would be surprising if AT&T's subsidiary McCaw does not engage in the same bypass. The PCS auction winners to date comprise an Alaska interexchange carrier and an experienced wireline and wireless local services provider. They too can be expected

⁵ As the FCC has acknowledged on page 8 of the Notice, "LECs typically terminate many more calls that originate from the cellular network than an interconnecting cellular network terminates LEC-originated calls." ATU firmly believes that its market based interconnection rate of 2.2 cents per minute (reached through the arms length negotiation process with AT&T Wireless) generates a net revenue flow to ATU from all cellular traffic (both originating and terminating) that accurately reflects both ATU's and AT&T Wireless' estimates of ATU's costs of originating and terminating that traffic, as well as the cellular systems' costs of originating and terminating the same traffic. In other words, because of traffic characteristics and relative cost structures, if ATU and AT&T Wireless, for example, charged each other the same amount to terminate traffic originating on the other's network, at the end of the relevant accounting period AT&T Wireless would end up owing ATU an amount that would work out to 2.2 cents per minute of traffic terminating on ATU's network. If the total costs for terminating traffic on each network were roughly the same, then AT&T Wireless would end up owing 0 cents per minute -- and bill and keep would make sense. In the absence of this balance, a bill and keep arrangement would, as a practical matter, transfer substantial sums from ATU to AT&T Wireless, which hardly needs a subsidy, without any legitimate basis.

to bypass ATU as soon as it makes economic sense for them to do so for their interexchange traffic.

What's left is local traffic -- calls between cellular subscribers in the Anchorage area and wireline subscribers also in the Anchorage area. This is and should be a local matter, beyond both the interest and jurisdiction of the Federal Communications Commission. In contrast to the Commission's proposals for a federally-mandated solution, the Telecommunications Act of 1996 recognizes and indeed encourages the very voluntary negotiation of interconnection agreements that has worked effectively in Anchorage. Under newly enacted Section 251 of the Communications Act, ATU is obligated to negotiate interconnection agreements in good faith, and fully intends to do so. Section 252 of the Act leaves no doubt about Congress' preferences for voluntary negotiation, supplemented by mediation and, if necessary, arbitration by the relevant state commission -- not the FCC.⁶

To date, the experience in Anchorage with voluntarily negotiated interconnection agreements has been to provide a reasonable and fair basis for interconnection for all CMRS providers. This experience provides a firm basis for expecting that the new structure enacted by Congress for voluntary interconnection negotiations will continue to work in Anchorage. Prudence, if not the law, require the

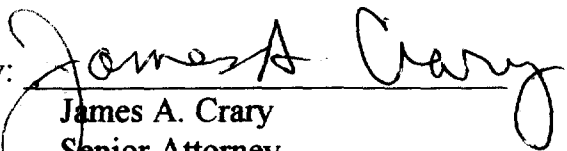
⁶ The statute also provides for review and approval of interconnection agreements by the state commission, and contemplates FCC action only if the state commission "fails to carry out its responsibility." 47 U.S.C. § 251(e)(6).

Commission to provide a meaningful opportunity for the new structure to be implemented and to work.

Indeed, the public interest as now defined by the Congress requires the Commission to encourage parties to engage in the voluntary negotiations provided by the new statute and for the Commission to refrain from taking any actions that would disrupt the statutory scheme. The proposals in the Notice in this proceeding, however, are not consistent with these goals. Accordingly, ATU urges the Commission to withdraw the proposals in the Notice and focus instead on facilitating the voluntary interconnection negotiations provided by the Telecommunications Act of 1996.

Respectfully submitted,

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February 28, 1996.